



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF INSPECTOR GENERAL

Office of Audit Services
Region VII
601 East 12th Street, Room 284A
Kansas City, MO 64106
(816) 426-3591

April 10, 2003

Report Number: A-07-03-03037

Mr. Allen Maltz
Chief Financial Officer
Blue Cross and Blue Shield of Massachusetts
Landmark Center
401 Park Drive, 01/08
Boston, Massachusetts 02215-3326

Dear Mr. Maltz:

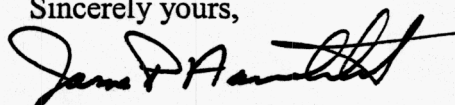
Enclosed are two copies of the U.S. Department of Health and Human Services (HHS), Office of Inspector General, Office of Audit Services' (OAS) report entitled "Pension Protection Plan Lump Sum Benefit Payments Claimed by Blue Cross Blue Shield of Massachusetts." A copy of this report will be forwarded to the action official noted below for his/her review and any action deemed necessary.

Final determination as to actions taken on all matters reported will be made by the HHS action official. We request that you respond to the HHS action official within 30 days from the date of this letter. Your response should present any comments or additional information that you believe may have a bearing on the final determination.

In accordance with the principles of the Freedom of Information Act (5 U.S.C. 552, as amended by Public Law 104-231), OIG, OAS reports issued to the Department's grantees and contractors are made available to members of the press and general public to the extent information contained therein is not subject to exemptions in the Act which the Department chooses to exercise. (See 45 CFR Part 5.) As such, within 10 business days after the final report is issued, it will be posted on the Internet at <http://oig.hhs.gov>.

To facilitate identification, please refer to Report Number A-07-03-03037 in all correspondence relating to this report.

Sincerely yours,


James P. Aasmundstad
Regional Inspector General
for Audit Services

Enclosures – as stated

Directly Reply to HHS Action Official:

Ms. Charlotte Yeh, M.D.
Regional Administrator, Region I
John F. Kennedy Federal Building
Government Center
Room 2325
Boston, Massachusetts 02203

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**PENSION PROTECTION PLAN LUMP
SUM BENEFIT PAYMENTS CLAIMED
BY BLUE CROSS BLUE SHIELD OF
MASSACHUSETTS**



**JANET REHNQUIST
INSPECTOR GENERAL**

**APRIL 2003
A-07-03-03037**

Office of Inspector General

<http://oig.hhs.gov/>

The mission of the Office of Inspector General (OIG), as mandated by Public Law 95-452, as amended, is to protect the integrity of the Department of Health and Human Services (HHS) programs, as well as the health and welfare of beneficiaries served by those programs. This statutory mission is carried out through a nationwide network of audits, investigations, and inspections conducted by the following operating components:

Office of Audit Services

The OIG's Office of Audit Services (OAS) provides all auditing services for HHS, either by conducting audits with its own audit resources or by overseeing audit work done by others. Audits examine the performance of HHS programs and/or its grantees and contractors in carrying out their respective responsibilities and are intended to provide independent assessments of HHS programs and operations in order to reduce waste, abuse, and mismanagement and to promote economy and efficiency throughout the Department.

Office of Evaluation and Inspections

The OIG's Office of Evaluation and Inspections (OEI) conducts short-term management and program evaluations (called inspections) that focus on issues of concern to the Department, the Congress, and the public. The findings and recommendations contained in the inspections reports generate rapid, accurate, and up-to-date information on the efficiency, vulnerability, and effectiveness of departmental programs.

Office of Investigations

The OIG's Office of Investigations (OI) conducts criminal, civil, and administrative investigations of allegations of wrongdoing in HHS programs or to HHS beneficiaries and of unjust enrichment by providers. The investigative efforts of OI lead to criminal convictions, administrative sanctions, or civil monetary penalties. The OI also oversees State Medicaid fraud control units, which investigate and prosecute fraud and patient abuse in the Medicaid program.

Office of Counsel to the Inspector General

The Office of Counsel to the Inspector General (OCIG) provides general legal services to OIG, rendering advice and opinions on HHS programs and operations and providing all legal support in OIG's internal operations. The OCIG imposes program exclusions and civil monetary penalties on health care providers and litigates those actions within the Department. The OCIG also represents OIG in the global settlement of cases arising under the Civil False Claims Act, develops and monitors corporate integrity agreements, develops model compliance plans, renders advisory opinions on OIG sanctions to the health care community, and issues fraud alerts and other industry guidance.

Notices

**THIS REPORT IS AVAILABLE TO THE PUBLIC
at <http://oig.hhs.gov/>**

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, Office of Inspector General, Office of Audit Services, reports are made available to members of the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR Part 5.)

OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed as well as other conclusions and recommendations in this report represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the awarding agency will make final determination on these matters.





DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General
Office of Audit Services

Region VII
601 East 12th Street
Room 284A
Kansas City, Missouri 64106

April 10, 2003

Report Number: A-07-03-03037

Mr. Allen Maltz
Chief Financial Officer
Blue Cross and Blue Shield of Massachusetts
Landmark Center
401 Park Drive, 01/08
Boston, Massachusetts 02215-3326

Dear Mr. Maltz:

This report provides you with the results of an Office of Inspector General (OIG), Office of Audit Services (OAS) review titled *Pension Protection Plan Lump Sum Benefit Payments Claimed by Blue Cross Blue Shield of Massachusetts*.

EXECUTIVE SUMMARY

OBJECTIVE

The purpose of our review was to determine the allowability of claims by Blue Cross Blue Shield of Massachusetts (Massachusetts) to Medicare for reimbursement of lump sum benefit payments made from the Pension Protection Plan (PPP) for the years 1987 through 1997.

FINDING

We determined that Massachusetts over claimed allowable lump sum benefit payments made from its PPP for the years 1987 through 1997. During this period, the allowable lump sum payments were \$1,204,959. However, Massachusetts claimed PPP lump sum payments of \$1,649,372 for Medicare reimbursement. As a result, Massachusetts over claimed allowable PPP lump sum payments by \$444,413.

RECOMMENDATION

We are recommending that Massachusetts revise its claim for benefit payments made from its PPP to eliminate the unallowable benefit payments of \$444,413. Massachusetts agreed with our finding in total. Massachusetts' response is included as Appendix A.

BACKGROUND

Blue Cross Blue Shield of Massachusetts

Massachusetts administered Medicare Parts A and B operations under cost reimbursement contracts until the contractual relationship was terminated effective July 31, 1997.

Massachusetts suggested, and we agreed, that January 1, 1998 would be an appropriate settlement date for the closing of the segment. Contractors were to follow cost reimbursement principles contained in the Cost Accounting Standards (CAS), the Federal Acquisition Regulations (FAR) and their Medicare contracts.

Massachusetts maintains a non-qualified pension plan called the Pension Protection Plan (PPP). Massachusetts elected to account for this plan on a pay-as-you-go basis. The PPP is designed to restore benefits lost under the regular qualified plan due to the Internal Revenue Code 401 (a)(17) and 415 limits. The PPP is a supplemental plan, which in combination with the regular plan provides a single benefit promise to participants.

Regulations

Prior to March 29, 1988, the accrued costs of a non-qualified pension plan were allocable and allowable only if the benefits provided by the plan were compellable (nonforfeitable) and funded. Otherwise, the allowable cost was limited to the pay-as-you-go cost, that is, actual benefit payments.

Per the pre-revised CAS at 48 CFR, 30.412-40(c), for the period of March 29, 1988 to the first pension plan year beginning after March 31, 1995, the accrued costs of plans that provided compellable benefits were allocable and allowable whether funded or not. If the benefits were not compellable, then the allowable costs were again limited to the pay-as-you-go costs, that is, actual benefit payments.

For the first pension plan year beginning after March 31, 1995, the revised CAS within 48 CFR 9904.412-50(c)(3) states:

The cost of nonqualified defined-benefit pension plans shall be assigned to cost accounting periods in the same manner as qualified plans under the following conditions:

(i) The contractor, in disclosing or establishing his cost accounting practices, elects to have a plan so accounted for;

(ii) The plan is funded through the use of a funding agency; and,

(iii) The right to a pension benefit is nonforfeitable and is communicated to the participants.

The CAS further states that the costs of nonqualified defined-benefit pension plans that do not meet all of the above requirements shall be assigned to cost accounting periods using the pay-as-you-go cost method.

OBJECTIVES, SCOPE AND METHODOLOGY

Objective

The objective of our audit was to determine whether PPP lump sum benefit payments claimed for the period subsequent to Massachusetts' termination were allowable for Medicare reimbursement.

Scope

At the request of the Centers for Medicare and Medicaid Services (formerly Health Care Financing Administration), we reviewed Massachusetts' February 9, 2000 claim of \$1,649,372 for PPP lump sum payments made to participants for the years 1987 through 1997.

In performing our review, we used information as presented in Massachusetts' letter requesting reimbursement of its benefit payments made to participants of its supplemental pension plan and other information provided by Massachusetts. The information included support provided by Massachusetts' and its consulting actuaries. We examined Massachusetts' PPP claim in relation to applicable laws and regulations to determine whether Massachusetts complied with regulatory requirements.

Achieving our objective did not require that we review Massachusetts' internal control structure.

Methodology

We performed our audit in accordance with generally accepted government auditing Standards. We conducted the review during December 2002 through February 2003 at our OIG, OAS Jefferson City, Missouri field office.

FINDING AND RECOMMENDATION

For the years 1987 through 1997, Massachusetts over claimed \$444,413 in lump sum benefit payments made to participants of its Pension Protection Plan (PPP). These payments are unallowable because Massachusetts did not consider the CAS requirements for lump sum payments made after January 1, 1996.

CRITERIA

The revised CAS at 48 CFR 9904.412-50(b)(3) states that:

For defined-benefit plans accounted for under the pay-as-you-go method, the amount of pension cost assignable to a cost accounting period shall be the sum of:

- (i) *The net amount for any periodic benefits paid for that period, and*
- (ii) *The level annual installment required to amortize over 15 years any amounts paid to irrevocably settle an obligation for periodic benefits due in current or future cost accounting periods.*

In addition, the revised CAS at 48 CFR 9904.412-40(c) states that:

Except costs assigned to future periods by 9904.412-50(c)(2) & (5), the amount of pension cost computed for a cost accounting period is assignable only to that period.

CONDITION

For the years 1987 through 1997, Massachusetts claimed \$1,649,372 in lump sum benefit payments made to participants of its Pension Protection Plan (PPP). However, we determined that the allowable CAS lump sum payments were \$1,204,959. Therefore, Massachusetts over claimed lump sum payments made from the PPP by \$444,413.

CAUSE

The revised CAS became applicable to Massachusetts on January 1, 1996. At that time, Massachusetts did not amortize benefit payments paid in lump sums that were accounted for under the pay-as-you-go method over the required 15-year period. Instead, Massachusetts sought reimbursement for the total lump sums paid after that date. Additionally, Massachusetts sought reimbursement for pay-as-you-go costs that were no longer assignable to Medicare as of January 1, 1998.

EFFECT

Massachusetts over claimed benefit payments made from the PPP by \$444,413.

RECOMMENDATION:

We recommend that Massachusetts revise its claim for benefit payments made from its PPP to eliminate the unallowable benefit payments of \$444,413.

Auditee's Response

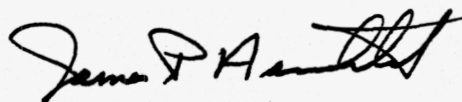
Massachusetts agreed with our findings in total. (See Appendix A).

INSTRUCTIONS FOR AUDITEE RESPONSE

Final determinations as to actions to be taken on all matters reported will be made by the HHS action official identified below. We request that you respond to the recommendation in this report within 30 days from the date of this report to the HHS action official, presenting any comments or additional information that you believe may have a bearing on final determination.

In accordance with the principles of the Freedom of Information Act, 5 U.S.C. 552, as amended by Public Law 104-231, OIG, OAS reports are made available to the public to the extent information contained therein is not subject to exemptions in the Act. (See 45 CFR part 5). As such, it will be posted on the worldwide web at <http://oig.hhs.gov/>.

Sincerely,



James P. Aasmundstad
Regional Inspector General for
Audit Services, Region VII

Enclosures

HHS Action Official:

Ms. Charlotte Yeh, M.D.
Regional Administrator, Region I
John F. Kennedy Federal Building
Government Center
Room 2325
Boston, Massachusetts 02203



Landmark Center
401 Park Drive
Boston, MA 02215-3326

March 25, 2003

James P. Aasmundstad
Regional Inspector General for Audit Services,
Region VII
Room 284A
601 East 12th Street
Kansas City, MO 64106

Dear Mr. Aasmundstad:

RE: Audit Report CIN # A-07-03-03037

Thank you for allowing Blue Cross and Blue Shield of Massachusetts, Inc. (BCBSMA) this opportunity to comment on draft Audit Report CIN: A-07-03-03037. We have reviewed the report and our comments are set forth below.

In draft Report CIN: A-07-03-03037, you determined that BCBSMA had over-claimed allowable non-qualified pension benefit payments by \$444,413 based on CAS regulations at 48 CFR 9904.412-50(b)(3) and 48 CFR 9904.412-40(c). We concur with the findings noted based on these regulations and will revise our claim with CMS accordingly.

Sincerely,

A handwritten signature in black ink, appearing to read "Allen Maltz".

Allen Maltz
Chief Financial Officer

ACKNOWLEDGMENTS

AUDIT REPORT NUMBER: A-07-03-03037
BLUE CROSS BLUE SHIELD OF MASSACHUSETTS

This report was prepared under the direction of James P. Aasmundstad, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff that contributed include:

Greg Tambke, *Audit Manager*
Scott Englund, *Senior Auditor*
Dave Imhoff, *Auditor*

For information or copies of this report, please contact the Office of Inspector General's Public Affairs office at (202) 619-1343.